

IN THE SENATE

SENATE BILL NO. 1266

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO EXECUTION; AMENDING SECTION 19-2715, IDAHO CODE, TO ESTABLISH  
ADDITIONAL PROVISIONS RELATING TO A STAY OF EXECUTION, TO REVISE PROVI-  
SIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO CERTAIN WAR-  
RANTS, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO RESETTING EXECU-  
TION DATES AND TO DEFINE A PHRASE; DECLARING AN EMERGENCY AND PROVIDING  
RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-2715, Idaho Code, be, and the same is hereby  
amended to read as follows:

19-2715. MINISTERIAL ACTIONS RELATING TO STAYS OF EXECUTION, RESET-  
TING EXECUTION DATES, AND ORDER FOR EXECUTION OF JUDGMENT OF DEATH. (1) Here-  
after, no further stays of execution shall be granted to persons sentenced to  
death except that a stay of execution shall be granted during an appeal taken  
pursuant to section 19-2719, Idaho Code, ~~and~~ during the automatic review  
of judgments imposing the punishment of death provided by section 19-2827,  
Idaho Code, by order of a federal court or as part of a commutation proceeding  
pursuant to section 20-240, Idaho Code.

(2) Upon remittitur or mandate after a sentence of death has been af-  
firmed, the state shall apply for a warrant from the district court in which  
the conviction was had, authorizing execution of the judgment of death. Upon  
such application, the district court shall set a new execution date not more  
than thirty (30) days thereafter.

(3) If a stay of execution is granted pursuant to subsection (1) of this  
section and as a result, no execution takes place on the date set by the dis-  
trict court, upon termination of the stay, the state shall apply for another  
warrant and upon such application, the district court shall set a new execu-  
tion date not more than thirty (30) days thereafter.

(4) If for any reason, other than those set forth in subsection (1) of  
this section, a judgment of death has not been executed, and it remains in  
force, the state shall apply for another warrant. Upon such application,  
the district court in which the conviction was had, on the application of the  
prosecuting attorney, must order the defendant to be brought before it, or  
if he is at large a warrant for his apprehension may be issued. Upon the de-  
fendant being brought before the court, the court must may inquire into the  
facts, and if no legal reason exists against the execution of the judgment,  
must make an order that the warden execute the judgment at a special speci-  
fied time. The warden must execute the judgment accordingly.

(45) Action of the district court under this section is ministerial  
only. No hearing shall be required for setting a new execution date and the  
court shall inquire only into the fact of an existing death sentence and the  
absence of a valid stay of execution.

1       (6) For purposes of this section, the phrase "stay of execution" shall  
2 refer to a temporary postponement of an execution as a result of a court or-  
3 der or an order of the governor postponing the execution while a petition for  
4 commutation is pending.

5       SECTION 2. An emergency existing therefor, which emergency is hereby  
6 declared to exist, this act shall be in full force and effect on and after its  
7 passage and approval, and retroactively to January 1, 2012.